

Opening Statement of the Honorable Greg Walden
Subcommittee on Communications and Technology
Hearing on “Oversight of Incentive Auction Implementation”
July 23, 2013

(As Prepared for Delivery)

The subcommittee meets today to continue our oversight of the FCC’s progress in implementing the incentive auction legislation Congress passed last year. A successful broadcast incentive auction has the potential to bring significant spectrum to bear on our nation’s broadband spectrum crunch, unleash innovation for consumers, create hundreds of thousands of jobs for Americans, provide funding to begin the process of building out a nationwide public safety broadband network, and make a significant contribution to reducing the deficit. But as with most things, the devil is in the details.

We convened all five sitting FCC commissioners last December for a “progress report” on the implementation of the law. This was a first step in making sure that the commission stays on track and acts within the confines of the law. In order to ensure that the FCC continues to follow the law, proper oversight is necessary.

A successful auction will require the FCC to get two parts of the equation right: the broadcast side and the broadband side.

For broadcasters, the intent of the law couldn’t be more clear. For those that plan to exit the market, the FCC has an obligation to let the market work. I am concerned that the commission seems to be contemplating inserting its judgment for that of the market when it comes to placing a value on a broadcast license. For the incentive auction to be successful, broadcasters that participate should be assured that they will be compensated based on the market value of their licenses – as determined by the auction – not based on estimates by the FCC. The auction is voluntary and we should look askance at FCC policies that would dissuade participation.

For those that remain in the business of broadcasting, I have been equally clear what I believe is needed – and the statute is clear what they deserve – is certainty. Broadcasters should be assured that they will be able to remain viable following this auction. That means the commission must provide the certainty that broadcasters in the border states will not be interfered with by our neighbors to the north and south. But beyond the statutory requirements, it means the FCC should take into consideration the unique challenges across the country as they reclaim broadcast spectrum and repack existing channels. For example, although ineligible to participate in the auction, low-power translators play a unique role in states in the mountain west. The commission should consider the ongoing need for translators as they conduct their repacking analysis.

On the broadband side of the equation, the commission should carefully consider how best to promote participation in the auction in a way that is consistent with the Communications Act.

Ultimately, a successful auction will be dependent on both broadcast and broadband interest. The FCC would be wise to recognize that in an industry as competitive as commercial wireless, rarely does the industry speak with a single voice. That’s why I am encouraged that a large portion of the industry – and broadcasters – seems to be coalescing around a band plan that promotes competition and maximizes auction proceeds. I would like to have seen the FCC focus on these aspects in their recent public notice on band plans.

Finally, I would like to talk for just a moment about auction participation. Just like the broadcasters, potential broadband licensees should be courted as participants not subjected to economic manipulation at the hands of the FCC. As we have learned time and again in spectrum auctions, well-meaning FCCs have tried to place conditions on auctions in an effort to engineer what it deems a “pro-competitive outcome.” Recently, some have suggested that the FCC can place restrictions on auction participation

without any adverse impact on auction proceeds. Let me be clear: it would be folly at best for the FCC to think that it could know better than a true market-based auction the maximum amount the auction could raise. A carefully crafted auction that recognizes the value of participation and has the humility to let the market decide the value of spectrum will best serve all of the goals of the legislation.

Our witnesses today represent the many sides of this debate. Broadcasters that want to sell and broadcasters that want to broadcast; two of our nation's four largest wireless providers; a representative of the public interest community; and, the Federal Communications Commission. While our witnesses may not see eye to eye on all of the issues we will discuss, I look forward to their testimony and counsel and know they share our desire to see a successful broadcast incentive auction.

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